



Planning Department

**TOWN OF ACTON**  
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**MEMORANDUM**

**To:** Zoning Board of Appeals **Date:** July 27, 2016  
**From:** Robert Hummel, Assistant Town Planner RH  
**Subject:** Special Permit #16-06  
25 Newtown Road – Construction of Addition on Nonconforming Lot in Excess of  
15% (Zoning Bylaw Section 8.1.5)

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**Location:** 25 Newtown Road

**Map/Parcel:** E4-79

**Petitioner:** Michael Mehler

**Owner:** Michael Mehler

**Zoning:** Residence 2 (R-2)

**Existing Gross Floor Area of Dwelling:** 1,280 ft<sup>2</sup>

**15% Permitted by-right:** 192 ft<sup>2</sup>

**Proposed Square Feet of New Construction Requested:** 1,256 ft<sup>2</sup> (98.1%)<sup>1</sup>

**Hearing Date:** August 1, 2016

**Decision Due:** October 30, 2016

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**Background**

Mr. Mehler requests a Special Permit under Section 8.1.5 of the Zoning Bylaw to allow for the second-story expansion of an existing single family dwelling located on a non-conforming lot. The subject property is classified as a nonconforming lot due to insufficient lot area and frontage. The required lot area in the R-2 Zoning District is 20,000 square feet and the required frontage is 150 feet. The property in question only has 16,880 square feet of area and 141 feet of frontage. The plans show three additional bedrooms for a proposed second floor expansion. The applicant indicates that the increase in Gross Floor Area would be 49.52% but we recalculated the increase of Gross Floor Area to be equal 98.1%.

**Comment**

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<sup>1</sup> The applicant mistakenly stated the proposed expansion as 49.52% but we calculated the proposed expansion to equal 98.1%.

The existing Gross Floor Area is noted above. Zoning Bylaw Section 8.1.4 allows for extensions or alterations by-right if they do not increase the overall size of the structure by more than 15% of the existing Gross Floor Area. The overall requested expansion in total exceeds this threshold, as noted above. Therefore, the proposed expansion requires a special permit under Section 8.1.5. The proposed addition meets the rear and side yard setbacks as required under the Zoning Bylaw for the R-2 Zoning District.

The application was distributed for departmental review and comments on 7/7/16. The current house has three bedrooms and the expansion will not increase the number of bedrooms. The Health Department commented that there is a deed restriction required prior to approval. Since the proposed expansion that is shown on the floor plans includes 3 bedrooms and more than 4 other non-bedrooms; the applicant must file for a deed restriction with the Health Department.

The Planning Department has no objection to granting the requested special permit with incorporating the recommended conditions and limitations below. The Zoning Board of Appeals has the authority to grant the requested special permit under Bylaw Sections 8.1.5 and 10.3.5.

### **Recommendation**

If the special permit is granted, the decision should include findings, conditions and limitations as follows:

1. A clear indication of the allowed expansion in square feet and percent.
2. The applicant must comply with the Title V standards with the Health Department. The applicant also must file for a deed restriction with the Health Department prior to building permit.
3. That any future additional expansion requires an amendment of the special permit (or a new special permit).
4. That the Petitioner must record the decision at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit on the site.
5. That all taxes, penalties and back charges resulting from the non-payment of taxes, if any, shall be paid in full before the issuance of a building permit.
6. That the special permit conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all-inclusive or to negate the remainder of the Bylaw.
7. That the Town of Acton may elect to enforce compliance with the special permit using any and all powers available to it under the law.
8. That other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by the decision.
9. That the Board reserves its right and power to modify or amend the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, its designees or assigns, or upon its own motion.